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HOUSE BILL 80

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Hector H. Balderas

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING AN EQUITABLE
SCHEDULE OF SENTENCING FOR CERTAIN OFFENSES; AMENDING SECTIONS
OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-73 NMSA 1978 (being Laws 1965,
Chapter 248, Section 74, as amended) is amended to read:

"7-1-73. [~~FALSE STATEMENT AND~~] TAX FRAUD.--

A. A person is guilty of [~~a felony~~] tax fraud if
the person:

(1) willfully makes and subscribes any return,
statement or other document that contains or is verified by a
written declaration that it is true and correct as to every
material matter and that the person does not believe it to be
true and correct as to every material matter;

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1 (2) willfully assists in, willfully procures,
2 willfully advises or willfully provides counsel regarding the
3 preparation or presentation of a return, affidavit, claim or
4 other document pursuant to or in connection with any matter
5 arising under the Tax Administration Act or a tax administered
6 by the department, knowing that it is fraudulent or knowing
7 that it is false as to a material matter, whether or not that
8 fraud or falsity is with knowledge or consent of:

9 (a) the taxpayer or other person liable
10 for taxes owed on the return; or

11 (b) a person who signs a document
12 stating that the return, affidavit, claim or other document is
13 true, correct and complete to the best of that person's
14 knowledge;

15 (3) files any return electronically, knowing
16 the information in the return is not true and correct as to
17 every material matter; or

18 (4) with intent to evade or defeat the payment
19 or collection of any tax, or, knowing that the probable
20 consequences of the person's act will be to evade or defeat the
21 payment or collection of any tax, removes, conceals or releases
22 any property on which levy is authorized or that is liable for
23 payment of tax under the provisions of Section 7-1-61 NMSA
24 1978, or aids in accomplishing or causes the accomplishment of
25 any of the foregoing ~~[is guilty of a felony and upon conviction~~

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1 ~~thereof, shall be fined not more than five thousand dollars~~
2 ~~(\$5,000) or imprisoned not less than six months or more than~~
3 ~~three years, or both, together with costs of prosecution].~~

4 B. Whoever commits tax fraud when the amount of the
5 tax owed is two hundred fifty dollars (\$250) or less is guilty
6 of a petty misdemeanor and shall be sentenced pursuant to the
7 provisions of Section 31-19-1 NMSA 1978.

8 C. Whoever commits tax fraud when the amount of the
9 tax owed is over two hundred fifty dollars (\$250) but not more
10 than five hundred dollars (\$500) is guilty of a misdemeanor and
11 shall be sentenced pursuant to the provisions of Section
12 31-19-1 NMSA 1978.

13 D. Whoever commits tax fraud when the amount of the
14 tax owed is over five hundred dollars (\$500) but not more than
15 two thousand five hundred dollars (\$2,500) is guilty of a
16 fourth degree felony and shall be sentenced pursuant to the
17 provisions of Section 31-18-15 NMSA 1978.

18 E. Whoever commits tax fraud when the amount of the
19 tax owed is over two thousand five hundred dollars (\$2,500) but
20 not more than twenty thousand dollars (\$20,000) is guilty of a
21 third degree felony and shall be sentenced pursuant to the
22 provisions of Section 31-18-15 NMSA 1978.

23 F. Whoever commits tax fraud when the amount of the
24 tax owed is over twenty thousand dollars (\$20,000) is guilty of
25 a second degree felony and shall be sentenced pursuant to the

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1 provisions of Section 31-18-15 NMSA 1978.

2 G. In addition to the fines imposed pursuant to
3 this section, a person who commits tax fraud shall pay the
4 costs of the prosecution of the person's case.

5 ~~[B.]~~ H. As used in this section:

6 (1) "tax" does not include civil penalties or
7 interest; and

8 (2) "willfully" means intentionally,
9 deliberately or purposely, but not necessarily maliciously."

10 Section 2. Section 30-16-1 NMSA 1978 (being Laws 1963,
11 Chapter 303, Section 16-1, as amended) is amended to read:

12 "30-16-1. LARCENY.--

13 A. Larceny consists of the stealing of anything of
14 value ~~[which]~~ that belongs to another.

15 B. Whoever commits larceny when the value of the
16 property stolen is ~~[one hundred dollars (\$100)]~~ two hundred
17 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

18 C. Whoever commits larceny when the value of the
19 property stolen is over ~~[one hundred dollars (\$100)]~~ two
20 hundred fifty dollars (\$250) but not more than ~~[two hundred~~
21 ~~fifty dollars (\$250)]~~ five hundred dollars (\$500) is guilty of
22 a misdemeanor.

23 D. Whoever commits larceny when the value of the
24 property stolen is over ~~[two hundred fifty dollars (\$250)]~~ five
25 hundred dollars (\$500) but not more than two thousand five

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1 hundred dollars (\$2,500) is guilty of a fourth degree felony.

2 E. Whoever commits larceny when the value of the
3 property stolen is over two thousand five hundred dollars
4 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
5 guilty of a third degree felony.

6 F. Whoever commits larceny when the value of the
7 property stolen is over twenty thousand dollars (\$20,000) is
8 guilty of a second degree felony.

9 G. Whoever commits larceny when the property of
10 value stolen is livestock is guilty of a third degree felony
11 regardless of its value.

12 H. Whoever commits larceny when the property of
13 value stolen is a firearm is guilty of a fourth degree felony
14 when its value is less than two thousand five hundred dollars
15 (\$2,500)."

16 Section 3. Section 30-16-6 NMSA 1978 (being Laws 1963,
17 Chapter 303, Section 16-6, as amended) is amended to read:

18 "30-16-6. FRAUD.--

19 A. Fraud consists of the intentional
20 misappropriation or taking of anything of value ~~[which]~~ that
21 belongs to another by means of fraudulent conduct, practices or
22 representations.

23 B. Whoever commits fraud when the value of the
24 property misappropriated or taken is ~~[one hundred dollars~~
25 ~~(\$100)]~~ two hundred fifty dollars (\$250) or less is guilty of a

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1 petty misdemeanor.

2 C. Whoever commits fraud when the value of the
3 property misappropriated or taken is over [~~one hundred dollars~~
4 ~~(\$100)~~] two hundred fifty dollars (\$250) but not more than [~~two~~
5 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) is
6 guilty of a misdemeanor.

7 D. Whoever commits fraud when the value of the
8 property misappropriated or taken is over [~~two hundred fifty~~
9 ~~dollars (\$250)~~] five hundred dollars (\$500) but not more than
10 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) is
11 guilty of a fourth degree felony.

12 [~~Whoever commits fraud when the property misappropriated~~
13 ~~or taken is a firearm is guilty of a fourth degree felony.~~]

14 E. Whoever commits fraud when the value of the
15 property misappropriated or taken is over [~~twenty-five~~] two
16 thousand five hundred dollars (\$2,500) but not more than twenty
17 thousand dollars (\$20,000) is guilty of a third degree felony.

18 F. Whoever commits fraud when the value of the
19 property misappropriated or taken exceeds twenty thousand
20 dollars (\$20,000) is guilty of a second degree felony.

21 G. Whoever commits fraud when the property
22 misappropriated or taken is a firearm that is valued at less
23 than two thousand five hundred dollars (\$2,500) is guilty of a
24 fourth degree felony."

25 Section 4. Section 30-16-7 NMSA 1978 (being Laws 1971,

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1 Chapter 282, Section 1, as amended) is amended to read:

2 "30-16-7. UNLAWFUL DEALING IN FEDERAL FOOD COUPONS OR WIC
3 CHECKS.--

4 A. Unlawful dealing in federal food coupons or WIC
5 checks consists of a person buying, selling, trading, bartering
6 or possessing food coupons or WIC checks issued by the United
7 States department of agriculture with the intent to obtain an
8 economic benefit to which ~~he~~ the person is not entitled under
9 the rules of the human services department pertaining to the
10 food stamp program or of the department of health pertaining to
11 the special supplemental food program for women, infants and
12 children.

13 B. Whoever commits unlawful dealing in federal food
14 coupons or WIC checks when the value of the food coupons or WIC
15 checks involved is [~~one hundred dollars (\$100)~~] two hundred
16 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

17 C. Whoever commits unlawful dealing in federal food
18 coupons or WIC checks when the value of the food coupons or WIC
19 checks involved is over [~~one hundred dollars (\$100)~~] two
20 hundred fifty dollars (\$250) but not more than [~~two hundred~~
21 ~~fifty dollars (\$250)~~] five hundred dollars (\$500) is guilty of
22 a misdemeanor.

23 D. Whoever commits unlawful dealing in federal food
24 coupons or WIC checks when the value of the food coupons or WIC
25 checks involved is over [~~two hundred fifty dollars (\$250)~~] five

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1 hundred dollars (\$500) but not more than two thousand five
2 hundred dollars (\$2,500) is guilty of a fourth degree felony.

3 E. Whoever commits unlawful dealing in federal food
4 coupons or WIC checks when the value of the food coupons or WIC
5 checks involved is over two thousand five hundred dollars
6 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
7 guilty of a third degree felony.

8 F. Whoever commits unlawful dealing in federal food
9 coupons or WIC checks when the value of the food coupons or WIC
10 checks involved exceeds twenty thousand dollars (\$20,000) is
11 guilty of a second degree felony.

12 G. For the purposes of this section, "federal food
13 coupons or WIC checks" [~~include~~] includes electronic benefit
14 transfer cards or any other method through which food stamps or
15 WIC benefits may be obtained."

16 Section 5. Section 30-16-8 NMSA 1978 (being Laws 1963,
17 Chapter 303, Section 16-7, as amended) is amended to read:

18 "30-16-8. EMBEZZLEMENT.--

19 A. Embezzlement consists of [~~the~~] a person
20 embezzling or converting to [~~his~~] the person's own use [~~of~~]
21 anything of value, with which [~~he~~] the person has been
22 entrusted, with fraudulent intent to deprive the owner thereof.
23 Each separate incident of embezzlement or conversion
24 constitutes a separate and distinct offense.

25 B. Whoever commits embezzlement when the value of

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1 the thing embezzled or converted is [~~one hundred dollars~~
2 ~~(\$100)~~] two hundred fifty dollars (\$250) or less is guilty of a
3 petty misdemeanor.

4 C. Whoever commits embezzlement when the value of
5 the thing embezzled or converted is over [~~one hundred dollars~~
6 ~~(\$100)~~] two hundred fifty dollars (\$250) but not more than [~~two~~
7 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) is
8 guilty of a misdemeanor.

9 D. Whoever commits embezzlement when the value of
10 the thing embezzled or converted is over [~~two hundred fifty~~
11 ~~dollars (\$250)~~] five hundred dollars (\$500) but not more than
12 two thousand five hundred dollars (\$2,500) is guilty of a
13 fourth degree felony.

14 E. Whoever commits embezzlement when the value of
15 the thing embezzled or converted is over two thousand five
16 hundred dollars (\$2,500) but not more than twenty thousand
17 dollars (\$20,000) is guilty of a third degree felony.

18 F. Whoever commits embezzlement when the value of
19 the thing embezzled or converted exceeds twenty thousand
20 dollars (\$20,000) is guilty of a second degree felony."

21 Section 6. Section 30-16-10 NMSA 1978 (being Laws 1963,
22 Chapter 303, Section 16-9) is amended to read:

23 "30-16-10. FORGERY.--

24 A. Forgery consists of:

25 [A.] (1) falsely making or altering any

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1 signature to, or any part of, any writing purporting to have
2 any legal efficacy with intent to injure or defraud; or

3 ~~[B.]~~ (2) knowingly issuing or transferring a
4 forged writing with intent to injure or defraud.

5 B. Whoever commits forgery ~~[is guilty of a third~~
6 ~~degree felony]~~ when there is no quantifiable damage or when the
7 damage is two thousand five hundred dollars (\$2,500) or less is
8 guilty of a fourth degree felony.

9 C. Whoever commits forgery when the damage is over
10 two thousand five hundred dollars (\$2,500) but not more than
11 twenty thousand dollars (\$20,000) is guilty of a third degree
12 felony.

13 D. Whoever commits forgery when the damage is over
14 twenty thousand dollars (\$20,000) is guilty of a second degree
15 felony."

16 Section 7. Section 30-16-11 NMSA 1978 (being Laws 1963,
17 Chapter 303, Section 16-11, as amended) is amended to read:

18 "30-16-11. RECEIVING STOLEN PROPERTY--PENALTIES.--

19 A. Receiving stolen property means intentionally to
20 receive, retain or dispose of stolen property knowing that it
21 has been stolen or believing it has been stolen, unless the
22 property is received, retained or disposed of with intent to
23 restore it to the owner.

24 B. The requisite knowledge or belief that property
25 has been stolen is presumed in the case of a dealer who:

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1 (1) is found in possession or control of
2 property stolen from two or more persons on separate occasions;

3 (2) acquires stolen property for a
4 consideration [~~which~~] that the dealer knows is far below the
5 property's reasonable value. A dealer shall be presumed to
6 know the fair market value of the property in which [~~he~~] the
7 dealer deals; or

8 (3) is found in possession or control of five
9 or more items of property stolen within one year prior to the
10 time of the incident charged pursuant to this section.

11 C. For the purposes of this section:

12 (1) "dealer" means a person in the business of
13 buying or selling goods or commercial merchandise; and

14 (2) "stolen property" means any property
15 acquired by theft, larceny, fraud, embezzlement, robbery or
16 armed robbery.

17 D. Whoever commits receiving stolen property when
18 the value of the property is [~~one hundred dollars (\$100)]~~ two
19 hundred fifty dollars (\$250) or less is guilty of a petty
20 misdemeanor.

21 E. Whoever commits receiving stolen property when
22 the value of the property is over [~~one hundred dollars (\$100)]~~
23 two hundred fifty dollars (\$250) but not more than [~~two hundred~~
24 ~~fifty dollars (\$250)]~~ five hundred dollars (\$500) is guilty of
25 a misdemeanor.

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1 F. Whoever commits receiving stolen property when
2 the value of the property is over [~~two hundred fifty dollars~~
3 ~~(\$250)~~] five hundred dollars (\$500) but not more than two
4 thousand five hundred dollars (\$2,500) is guilty of a fourth
5 degree felony.

6 G. Whoever commits receiving stolen property when
7 the value of the property is over two thousand five hundred
8 dollars (\$2,500) but not more than twenty thousand dollars
9 (\$20,000) is guilty of a third degree felony.

10 H. Whoever commits receiving stolen property when
11 the value of the property exceeds twenty thousand dollars
12 (\$20,000) is guilty of a second degree felony.

13 I. Whoever commits receiving stolen property when
14 the property is a firearm is guilty of a fourth degree felony
15 when its value is less than two thousand five hundred dollars
16 (\$2,500)."

17 Section 8. Section 30-16-16 NMSA 1978 (being Laws 1963,
18 Chapter 303, Section 16-16, as amended) is amended to read:

19 "30-16-16. FALSELY OBTAINING SERVICES OR ACCOMMODATIONS--
20 PROBABLE CAUSE--IMMUNITY--PENALTY.--

21 A. Falsely obtaining services or accommodations
22 consists of [~~any~~] a person obtaining service, food,
23 entertainment or accommodations without paying with the intent
24 to cheat or defraud the owner or person supplying [~~such~~] the
25 service, food, entertainment or accommodations.

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1 B. ~~[Any]~~ A law enforcement officer may arrest
2 without warrant ~~[any]~~ a person ~~[he]~~ the officer has probable
3 cause ~~[for believing]~~ to believe has committed the crime of
4 falsely obtaining services or accommodations. ~~[as defined in~~
5 ~~this section.~~ ~~Any]~~ A merchant, owner or proprietor who causes
6 such an arrest shall not be criminally or civilly liable if
7 ~~[he]~~ the merchant, owner or proprietor has actual knowledge
8 that the person ~~[so]~~ arrested has committed the crime of
9 falsely obtaining services or accommodations.

10 C. Whoever commits falsely obtaining services or
11 accommodations when the value of the service, food,
12 entertainment or accommodations furnished is:

13 (1) less than ~~[one hundred dollars (\$100)]~~ two
14 hundred fifty dollars (\$250) is guilty of a petty misdemeanor;

15 (2) more than ~~[one hundred dollars (\$100)]~~ two
16 hundred fifty dollars (\$250) but not more than ~~[two hundred~~
17 ~~fifty dollars (\$250)]~~ five hundred dollars (\$500) is guilty of
18 a misdemeanor;

19 (3) more than ~~[two hundred fifty dollars~~
20 ~~(\$250)]~~ five hundred dollars (\$500) but not more than two
21 thousand five hundred dollars (\$2,500) is guilty of a fourth
22 degree felony;

23 (4) more than two thousand five hundred
24 dollars (\$2,500) but not more than twenty thousand dollars
25 (\$20,000) is guilty of a third degree felony; and

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1 (5) more than twenty thousand dollars
2 (\$20,000) is guilty of a second degree felony."

3 Section 9. Section 30-16-18 NMSA 1978 (being Laws 1963,
4 Chapter 303, Section 16-18, as amended) is amended to read:

5 "30-16-18. IMPROPER SALE, DISPOSAL, REMOVAL OR CONCEALING
6 OF ENCUMBERED PROPERTY.--

7 A. Improper sale, disposal, removal or concealing
8 of encumbered property consists of [~~any~~] a person knowingly,
9 and with intent to defraud, selling, transferring, removing or
10 concealing, or in any manner disposing of, any personal
11 property upon which a security interest, chattel mortgage or
12 other lien or encumbrance has attached or been retained,
13 without the written consent of the holder of [~~such~~] the
14 security interest, chattel mortgage, conditional sales
15 contract, lien or encumbrance.

16 [~~Any~~] B. A broker, dealer or [~~any~~] an agent, buyer
17 or seller who receives any remuneration whatsoever for transfer
18 of equity or arranges the assumption of any loan on a mobile
19 home or recreational vehicle [~~which~~] that has a lien filed upon
20 [~~such~~] the vehicle with the motor vehicle division of the
21 [~~transportation~~] taxation and revenue department [~~must~~] shall
22 obtain written consent from the lien holder approving
23 transferee's assumption of transferor's obligation to the lien
24 holder within ten days of [~~such~~] the transaction before [~~such~~]
25 the transaction is entered into, provided that the lien

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1 holder's written consent shall not unreasonably be withheld.
2 Failure to do so constitutes an improper sale, disposal, ~~or~~
3 removal or ~~concealment~~ concealing of encumbered property,
4 which is punishable as a petty misdemeanor.

5 C. Whoever commits improper sale, disposal, removal
6 or concealing of encumbered property ~~where~~ when the value of
7 ~~[such] the property is [one hundred dollars (\$100)]~~ two hundred
8 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

9 D. Whoever commits improper sale, disposal, removal
10 or concealing of encumbered property ~~where~~ when the value of
11 ~~[such] the property is over [one hundred dollars (\$100)]~~ two
12 hundred fifty dollars (\$250) but not more than ~~[two hundred~~
13 ~~fifty dollars (\$250)]~~ five hundred dollars (\$500) is guilty of
14 a misdemeanor.

15 E. Whoever commits improper sale, disposal, removal
16 or concealing of encumbered property ~~where~~ when the value of
17 ~~[such] the property is over [two hundred fifty dollars (\$250)]~~
18 five hundred dollars (\$500) but not more than ~~[twenty-five]~~ two
19 thousand five hundred dollars (\$2,500) is guilty of a fourth
20 degree felony.

21 F. Whoever commits improper sale, disposal, removal
22 or concealing of encumbered property ~~where~~ when the value of
23 ~~[such] the property is over [twenty-five]~~ two thousand five
24 hundred dollars (\$2,500) but not more than twenty thousand
25 dollars (\$20,000) is guilty of a third degree felony.

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1 G. Whoever commits improper sale, disposal, removal
2 or concealing of encumbered property ~~[where]~~ when the value of
3 ~~[such]~~ the property exceeds twenty ~~[thousand]~~ thousand dollars
4 (\$20,000) is guilty of a second degree felony."

5 Section 10. Section 30-16-20 NMSA 1978 (being Laws 1965,
6 Chapter 5, Section 2, as amended) is amended to read:

7 "30-16-20. ~~[CRIME OF]~~ SHOPLIFTING ~~[CREATED]~~.--

8 A. Shoplifting consists of ~~[any]~~ one or more of the
9 following acts:

10 (1) willfully taking possession of ~~[any]~~
11 merchandise with the intention of converting it without paying
12 for it;

13 (2) willfully concealing ~~[any]~~ merchandise
14 with the intention of converting it without paying for it;

15 (3) willfully altering ~~[any]~~ a label, price
16 tag or marking upon ~~[any]~~ merchandise with the intention of
17 depriving the merchant of all or some part of the value of it;
18 or

19 (4) willfully transferring ~~[any]~~ merchandise
20 from the container in or on which it is displayed to ~~[any~~
21 ~~other]~~ another container with the intention of depriving the
22 merchant of all or some part of the value of it.

23 B. Whoever commits shoplifting when the value of
24 the merchandise shoplifted:

25 (1) is ~~[one hundred dollars (\$100)]~~ two

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1 hundred fifty dollars (\$250) or less is guilty of a petty
2 misdemeanor;

3 (2) is more than [~~one hundred dollars (\$100)~~]
4 two hundred fifty dollars (\$250) but not more than [~~two hundred~~
5 ~~fifty dollars (\$250)~~] five hundred dollars (\$500) is guilty of
6 a misdemeanor;

7 (3) is more than [~~two hundred fifty dollars~~
8 ~~(\$250)~~] five hundred dollars (\$500) but not more than two
9 thousand five hundred dollars (\$2,500) is guilty of a fourth
10 degree felony;

11 (4) is more than two thousand five hundred
12 dollars (\$2,500) but not more than twenty thousand dollars
13 (\$20,000) is guilty of a third degree felony; or

14 (5) is more than twenty thousand dollars
15 (\$20,000) is guilty of a second degree felony.

16 C. [~~Any~~] An individual charged with a violation of
17 this section shall not be charged with a separate or additional
18 offense arising out of the same transaction."

19 Section 11. Section 30-16-33 NMSA 1978 (being Laws 1971,
20 Chapter 239, Section 9) is amended to read:

21 "30-16-33. FRAUDULENT USE OF A CREDIT [~~CARDS~~] CARD.--

22 A. [~~A person is guilty of a fourth degree felony~~
23 ~~if, with intent to defraud, he uses to obtain anything of~~
24 ~~value~~] Fraudulent use of a credit card consists of a person
25 obtaining anything of value, with intent to defraud, by using:

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1 (1) a credit card obtained in violation of
2 Sections [~~40A-16-24 through 40A-16-38 NMSA 1953; or~~] 30-16-25
3 through 30-16-38 NMSA 1978;

4 (2) a credit card [~~which~~] that is invalid,
5 expired or revoked; [~~or~~]

6 (3) a credit card while fraudulently
7 representing that [~~he~~] the person is the cardholder named on
8 the credit card or an authorized agent or representative of the
9 cardholder named on the credit card; or

10 (4) a credit card issued in the name of
11 another person without the consent of the person to whom the
12 card has been issued.

13 [~~B. If the value of all things of value obtained by~~
14 ~~any person from one or more merchants, an issuer or a~~
15 ~~participating party, in violation of this section exceeds three~~
16 ~~hundred dollars (\$300) in any consecutive six months period,~~
17 ~~then the offense of the violator is a third degree felony.]~~

18 B. Whoever commits fraudulent use of a credit card
19 when the value of the property or service obtained is two
20 hundred fifty dollars (\$250) or less in any consecutive six-
21 month period is guilty of a petty misdemeanor.

22 C. Whoever commits fraudulent use of a credit card
23 when the value of the property or service obtained is over two
24 hundred fifty dollars (\$250) but not more than five hundred
25 dollars (\$500) in any consecutive six-month period is guilty of

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1 a misdemeanor.

2 D. Whoever commits fraudulent use of a credit card
3 when the value of the property or service obtained is over five
4 hundred dollars (\$500) but not more than two thousand five
5 hundred dollars (\$2,500) in any consecutive six-month period is
6 guilty of a fourth degree felony.

7 E. Whoever commits fraudulent use of a credit card
8 when the value of the property or service obtained is over two
9 thousand five hundred dollars (\$2,500) but not more than twenty
10 thousand dollars (\$20,000) in any consecutive six-month period
11 is guilty of a third degree felony.

12 F. Whoever commits fraudulent use of a credit card
13 when the value of the property or service obtained is over
14 twenty thousand dollars (\$20,000) in any consecutive six-month
15 period is guilty of a second degree felony."

16 Section 12. Section 30-16-34 NMSA 1978 (being Laws 1971,
17 Chapter 239, Section 10) is amended to read:

18 "30-16-34. FRAUDULENT ACTS BY MERCHANTS OR THEIR
19 EMPLOYEES.--

20 A. ~~[Any]~~ A merchant or the employee of ~~[any]~~ a
21 merchant ~~[is guilty of a fourth degree felony]~~ commits fraud
22 if, with intent to defraud, [he] the merchant or employee
23 furnishes or allows to be furnished anything of value upon
24 presentation of a credit card:

25 (1) obtained or retained in violation of

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1 Sections ~~[40A-16-24 through 40A-16-38 NMSA 1953; or]~~ 30-16-25
2 through 30-16-38 NMSA 1978;

3 (2) fraudulently made or embossed; ~~[or]~~
4 (3) fraudulently signed; ~~[or a credit card~~
5 ~~which he]~~

6 (4) that the merchant or employee knows is
7 invalid, expired or revoked ~~[or a credit card presented]; or~~

8 (5) by a person whom ~~[he]~~ the merchant or
9 employee knows is not the cardholder named on the credit card
10 or an authorized agent or representative of the cardholder
11 named on the credit card. [If]

12 B. When the value of anything furnished by a
13 merchant, or by an employee of a merchant, in violation of this
14 section ~~[exceeds three hundred dollars (\$300), in any~~
15 ~~consecutive six months period, then the offense is a third~~
16 ~~degree felony]:~~

17 (1) is two hundred fifty dollars (\$250) or
18 less in any consecutive six-month period, the offense is a
19 petty misdemeanor;

20 (2) is more than two hundred fifty dollars
21 (\$250) but not more than five hundred dollars (\$500) in any
22 consecutive six-month period, the offense is a misdemeanor;

23 (3) is more than five hundred dollars (\$500)
24 but not more than two thousand five hundred dollars (\$2,500) in
25 any consecutive six-month period, the offense is a fourth

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1 degree felony;

2 (4) is more than two thousand five hundred
3 dollars (\$2,500) but not more than twenty thousand dollars
4 (\$20,000) in any consecutive six-month period, the offense is a
5 third degree felony; or

6 (5) is more than twenty thousand dollars
7 (\$20,000) in any consecutive six-month period, the offense is a
8 second degree felony.

9 ~~[B.—Any]~~ C. A merchant or the employee of ~~[any]~~ a
10 merchant ~~[is guilty of a fourth degree felony]~~ commits fraud
11 if, with intent to defraud, ~~[he]~~ the merchant or employee fails
12 to furnish anything of value ~~[which he]~~ that the merchant or
13 employee represents in writing to the issuer or to a
14 participating party that ~~[he]~~ the merchant or employee has
15 furnished on a credit card or cards of the issuer. ~~[If]~~ When
16 the difference between the value of anything actually furnished
17 to ~~[any]~~ a person ~~[or persons]~~ and the value represented by the
18 merchant to the issuer or participating party ~~[exceeds three~~
19 ~~hundred dollars (\$300) in any consecutive six months period,~~
20 ~~then the offense is a third degree felony]~~:

21 (1) is two hundred fifty dollars (\$250) or
22 less in any consecutive six-month period, the offense is a
23 petty misdemeanor;

24 (2) is more than two hundred fifty dollars
25 (\$250) but not more than five hundred dollars (\$500) in any

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1 consecutive six-month period, the offense is a misdemeanor;

2 (3) is more than five hundred dollars (\$500)
3 but not more than two thousand five hundred dollars (\$2,500) in
4 any consecutive six-month period, the offense is a fourth
5 degree felony;

6 (4) is more than two thousand five hundred
7 dollars (\$2,500) but not more than twenty thousand dollars
8 (\$20,000) in any consecutive six-month period, the offense is a
9 third degree felony; or

10 (5) is more than twenty thousand dollars
11 (\$20,000) in any consecutive six-month period, the offense is a
12 second degree felony."

13 Section 13. Section 30-16-36 NMSA 1978 (being Laws 1971,
14 Chapter 239, Section 12) is amended to read:

15 "30-16-36. RECEIPT OF PROPERTY OBTAINED IN VIOLATION OF
16 ACT.--[Any] A person who receives [~~the~~] money, goods, services
17 or anything else of value obtained in violation of Section
18 [~~40A-16-33 NMSA 1953~~] 30-16-33 NMSA 1978, and who knows or has
19 reason to believe that it was so obtained, violates this
20 section. The degree of the offense is determined as follows:

21 A. [~~if~~] when the value of all things of value
22 obtained from [~~any~~] a person [~~or persons~~] in violation of this
23 section is [~~one hundred dollars (\$100)~~] two hundred fifty
24 dollars (\$250) or less in any consecutive [~~six months~~]
25 six-month period, then the offense is a petty misdemeanor;

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1 B. ~~[if]~~ when the value of all things of value
2 obtained from ~~[any]~~ a person ~~[or persons]~~ in violation of this
3 section is more than ~~[one hundred dollars (\$100)]~~ two hundred
4 fifty dollars (\$250) but ~~[less than three hundred dollars~~
5 ~~(\$300) in any consecutive six months period, then the offense~~
6 ~~is a fourth degree felony;~~

7 ~~C. if the value of all things of value obtained~~
8 ~~from any person or persons in violation of this section is~~
9 ~~three hundred dollars (\$300) or more in any consecutive six~~
10 ~~months period, then the offense is a third degree felony]~~ not
11 more than five hundred dollars (\$500) in any consecutive six-
12 month period, then the offense is a misdemeanor;

13 C. when the value of all things of value obtained
14 from a person in violation of this section is more than five
15 hundred dollars (\$500) but not more than two thousand five
16 hundred dollars (\$2,500) in any consecutive six-month period,
17 then the offense is a fourth degree felony;

18 D. when the value of all things of value obtained
19 from a person in violation of this section is more than two
20 thousand five hundred dollars (\$2,500) but not more than twenty
21 thousand dollars (\$20,000) in any consecutive six-month period,
22 then the offense is a third degree felony; or

23 E. when the value of all things of value obtained
24 from a person in violation of this section is more than twenty
25 thousand dollars (\$20,000) in any consecutive six-month period,

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1 then the offense is a second degree felony."

2 Section 14. Section 30-16-39 NMSA 1978 (being Laws 1972,
3 Chapter 23, Section 1, as amended) is amended to read:

4 "30-16-39. FRAUDULENT ACTS TO OBTAIN OR RETAIN POSSESSION
5 OF RENTED OR LEASED VEHICLE OR OTHER PERSONAL PROPERTY--

6 PENALTY.--~~[Any]~~ A person who rents or leases a vehicle or other
7 personal property and obtains or retains possession of it by
8 means of any false or fraudulent representation, fraudulent
9 concealment, false pretense [~~or personation~~], trick, artifice
10 or device, including [~~but not limited to~~] a false
11 representation as to [~~his~~] the person's name, residence,
12 employment or operator's license, is guilty of a:

13 A. ~~[of a fourth degree felony if the property is a~~
14 ~~vehicle or has a value in excess]~~ petty misdemeanor if the
15 vehicle or property has a value of [~~one hundred dollars (\$100);~~
16 ~~or~~] two hundred fifty dollars (\$250) or less;

17 B. ~~[of a petty misdemeanor if the property is not a~~
18 ~~vehicle and]~~ misdemeanor if the vehicle or property has a value
19 of [~~one hundred dollars (\$100) or less]~~ over two hundred fifty
20 dollars (\$250) but not more than five hundred dollars (\$500);

21 C. fourth degree felony if the property or vehicle
22 has a value of over five hundred dollars (\$500) but not more
23 than two thousand five hundred dollars (\$2,500);

24 D. third degree felony if the property or vehicle
25 has a value of over two thousand five hundred dollars (\$2,500)

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1 but not more than twenty thousand dollars (\$20,000); and

2 E. second degree felony if the property or vehicle
3 has a value of over twenty thousand dollars (\$20,000)."

4 Section 15. Section 30-16-40 NMSA 1978 (being Laws 1973,
5 Chapter 154, Section 1, as amended) is amended to read:

6 "30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE
7 OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION.--

8 A. ~~[Any]~~ A person who, after leasing a vehicle or
9 other personal property under a written agreement ~~[which]~~ that
10 provides for the return of the vehicle or personal property to
11 a particular place at a particular time and who, with intent to
12 defraud the lessor of the vehicle or personal property, fails
13 to return the vehicle or personal property to the place within
14 the time specified, is guilty of a:

15 ~~[(1) of a petty misdemeanor if the property is~~
16 ~~not a vehicle and has a value of one hundred dollars (\$100) or~~
17 ~~less;~~

18 ~~(2) of a fourth degree felony if the property~~
19 ~~is not a vehicle and has a value of more than one hundred~~
20 ~~dollars (\$100) but less than two thousand five hundred dollars~~
21 ~~(\$2,500);~~

22 ~~(3) of a fourth degree felony if the vehicle~~
23 ~~has a value of less than two thousand five hundred dollars~~
24 ~~(\$2,500); and~~

25 ~~(4) of a third degree felony if the property~~

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1 ~~or vehicle has a value of two thousand five hundred dollars~~
2 ~~(\$2,500) or more]~~

3 (1) petty misdemeanor if the property or
4 vehicle has a value of two hundred fifty dollars (\$250) or
5 less;

6 (2) misdemeanor if the property or vehicle has
7 a value of over two hundred fifty dollars (\$250) but not more
8 than five hundred dollars (\$500);

9 (3) fourth degree felony if the property or
10 vehicle has a value of over five hundred dollars (\$500) but not
11 more than two thousand five hundred dollars (\$2,500);

12 (4) third degree felony if the property or
13 vehicle has a value of over two thousand five hundred dollars
14 (\$2,500) but not more than twenty thousand dollars (\$20,000);
15 and

16 (5) second degree felony if the property or
17 vehicle has a value of over twenty thousand dollars (\$20,000).

18 B. Failure of the lessee to return the vehicle or
19 personal property to the place specified within seventy-two
20 hours after mailing to [him] the lessee by certified mail at
21 [his] the lessee's address shown on the leasing agreement a
22 written demand to return the vehicle or personal property shall
23 raise a rebuttable presumption that the failure to return the
24 vehicle or personal property was with intent to defraud."

25 Section 16. Section 30-17-5 NMSA 1978 (being Laws 1970,

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1 Chapter 39, Section 1) is amended to read:

2 "30-17-5. ARSON AND NEGLIGENT ARSON.--

3 A. Arson consists of a person maliciously or
4 willfully starting a fire or causing an explosion with the
5 purpose of destroying or damaging [~~any~~]:

6 (1) a building, occupied structure or property
7 of another [~~or~~] person;

8 (2) a bridge, utility line, fence or sign [~~or~~
9 ~~with the purpose of destroying or damaging~~]; or

10 (3) any property, whether the person's own
11 property or [~~another's~~] the property of another person, to
12 collect insurance for [~~such~~] the loss.

13 [~~(1)~~] B. Whoever commits arson when the [~~value of~~
14 ~~the thing destroyed or damaged~~] damage is [~~one hundred dollars~~
15 ~~(\$100)~~] two hundred fifty dollars (\$250) or less is guilty of a
16 petty misdemeanor.

17 [~~(2)~~] C. Whoever commits arson when the [~~value of~~
18 ~~the thing destroyed or damaged~~] damage is over [~~one hundred~~
19 ~~dollars (\$100)~~] two hundred fifty dollars (\$250) but not more
20 than [~~one thousand dollars (\$1,000)~~] five hundred dollars
21 (\$500) is guilty of a [~~fourth degree felony~~] misdemeanor.

22 [~~(3)~~] D. Whoever commits arson when the [~~value of~~
23 ~~the thing destroyed or damaged exceeds one thousand dollars~~
24 ~~(\$1,000) is guilty of a third degree felony~~] damage is over
25 five hundred dollars (\$500) but not more than two thousand five

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1 hundred dollars (\$2,500) is guilty of a fourth degree felony.

2 E. Whoever commits arson when the damage is over
3 two thousand five hundred dollars (\$2,500) but not more than
4 twenty thousand dollars (\$20,000) is guilty of a third degree
5 felony.

6 F. Whoever commits arson when the damage is over
7 twenty thousand dollars (\$20,000) is guilty of a second degree
8 felony.

9 ~~[B.]~~ G. Negligent arson consists of a person
10 recklessly starting a fire or causing an explosion, whether on
11 the person's property or ~~[another's]~~ the property of another
12 person, and thereby directly:

13 (1) causing the death or bodily injury of
14 another person; or

15 (2) damaging or destroying a building or
16 occupied structure of another person.

17 H. Whoever commits negligent arson is guilty of a
18 fourth degree felony.

19 ~~[G.]~~ I. As used in this section, "occupied
20 structure" includes a boat, trailer, car, airplane, structure
21 or place adapted for the transportation or storage of property,
22 ~~[or]~~ for overnight accommodations of persons or for carrying on
23 business therein, whether or not a person is actually present."

24 Section 17. Section 30-33-13 NMSA 1978 (being Laws 1963,
25 Chapter 49, Section 2, as amended) is amended to read:

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1 "30-33-13. CRIME TO PROCURE OR TO ATTEMPT TO PROCURE
2 TELECOMMUNICATIONS SERVICE WITHOUT PAYING CHARGE--CRIME TO
3 MAKE, POSSESS, SELL, GIVE OR TRANSFER CERTAIN DEVICES FOR
4 CERTAIN PURPOSES--PENALTY.--

5 A. It is unlawful for [~~any~~] a person, with intent
6 to defraud [~~any~~] a person, firm or corporation, to obtain or to
7 attempt to obtain any telecommunications service without paying
8 the lawful charge, in whole or in part, by any of the following
9 means:

10 (1) charging [~~such~~] the service to an existing
11 telephone number or credit card number without the authority of
12 the subscriber [~~thereto~~] or the legitimate holder [~~thereof~~];

13 (2) charging [~~such~~] the service to a
14 nonexistent, false, fictitious or counterfeit telephone number
15 or credit card number or to a suspended, terminated, expired,
16 canceled or revoked telephone number or credit card number;

17 (3) rearranging, tampering with or making
18 electrical, acoustical, induction or other connection with any
19 facilities or equipment;

20 (4) using a code, prearranged scheme or other
21 strategem or device whereby [~~said~~] the person in effect sends
22 or receives information; or

23 (5) using any other contrivance, device or
24 means to avoid payment of the lawful charges, in whole or in
25 part, for [~~such~~] the service.

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1 B. This [~~subsection~~] section shall apply when [~~said~~
2 ~~telecommunication~~] the telecommunications service either
3 originates or terminates, or both, in this state or when
4 charges for [~~said~~] the service would have been billable in
5 normal course by the public utility providing [~~such~~] the
6 service in this state but for the fact that [~~said~~] the service
7 was obtained or attempted to be obtained by one or more of the
8 means set forth [~~hereinabove~~] in this section.

9 C. Whoever violates this [~~subsection~~] section when
10 the charges for the [~~telecommunication~~] telecommunications
11 service obtained or attempted to be obtained are [~~one hundred~~
12 ~~dollars (\$100)~~] two hundred fifty dollars (\$250) or less is
13 guilty of a petty misdemeanor.

14 D. Whoever violates this [~~subsection~~] section when
15 the charges for the [~~telecommunication~~] telecommunications
16 service obtained or attempted to be obtained are more than [~~one~~
17 ~~hundred dollars (\$100)~~] two hundred fifty dollars (\$250) but
18 not more than [~~two hundred fifty dollars (\$250)~~] five hundred
19 dollars (\$500) is guilty of a misdemeanor.

20 E. Whoever violates this [~~subsection~~] section when
21 the charges for the [~~telecommunication~~] telecommunications
22 service obtained or attempted to be obtained are more than [~~two~~
23 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) but
24 not more than [~~twenty-five~~] two thousand five hundred dollars
25 (\$2,500) is guilty of fourth degree felony.

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1 F. Whoever violates this [~~subsection~~] section when
2 the charges for the [~~telecommunication~~] telecommunications
3 service obtained or attempted to be obtained are more than
4 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) but
5 not more than twenty thousand dollars (\$20,000) is guilty of a
6 third degree felony.

7 G. Whoever violates this [~~subsection~~] section when
8 the charges for the [~~telecommunication~~] telecommunications
9 service obtained or attempted to be obtained exceed twenty
10 thousand dollars (\$20,000) is guilty of a second degree felony.

11 [~~B-~~] H. It is unlawful for [~~any~~] a person under
12 circumstances evidencing an intent to use or employ any
13 instrument, apparatus, equipment or device described in
14 Paragraph (1) of this subsection or to allow the same to be
15 used or employed for the purpose described in Paragraph (1) of
16 this subsection or knowing or having reason to believe that the
17 same is intended to be so used or that the plans and
18 instructions described in Paragraph (2) of this subsection are
19 intended to be used for making or assembling [~~such~~] the
20 instrument, apparatus, equipment or device:

21 (1) to make or possess any instrument,
22 apparatus, equipment or device designed, adapted or [~~which~~]
23 that can be used either:

24 (a) to obtain [~~telecommunication~~]
25 telecommunications service in violation of [~~Subsection A of~~]

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1 this section; or

2 (b) to conceal or to assist another to
3 conceal from any supplier of [~~telecommunication~~
4 telecommunications service or from any lawful authority the
5 existence or place of origin or of destination of any
6 [~~telecommunication~~] telecommunications service; or

7 (2) to sell, give or otherwise transfer to
8 another or to offer or advertise for sale any instrument,
9 apparatus, equipment or device described in Paragraph (1) of
10 this subsection or plans or instructions for making or
11 assembling the same.

12 I. Whoever violates [~~this subsection~~] Subsection H
13 of this section is guilty of a misdemeanor, unless [~~such~~] the
14 person has previously been convicted of [~~such~~] the crime or of
15 an offense under the laws of another state or of the United
16 States [~~which~~] that would have been an offense under [~~this~~
17 ~~subsection~~] Subsection H of this section if committed in this
18 state, in which case [~~such~~] the person is guilty of a fourth
19 degree felony."

20 Section 18. Section 30-36-5 NMSA 1978 (being Laws 1965,
21 Chapter 114, Section 1) is amended to read:

22 "30-36-5. PENALTY.-- [~~Any person violating Section 40-49-4~~
23 ~~New Mexico Statutes Annotated, 1953 Compilation~~] A person who
24 violates Section 30-36-4 NMSA 1978 shall be punished as
25 follows:

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1 A. when the amount of the check, draft or order or
2 the total amount of the checks, drafts or orders [~~are for more~~
3 ~~than one dollar (\$1.00) but less than twenty-five dollars~~
4 ~~(\$25.00), imprisonment in the county jail for a term of not~~
5 ~~more than thirty days or a fine of not more than one hundred~~
6 ~~dollars (\$100), or both such imprisonment and fine] in any
7 consecutive three-month period is one hundred dollars (\$100) or
8 less, the person is guilty of a misdemeanor;~~

9 B. when the amount of the check, draft or order or
10 the total amount of the checks, drafts or orders [~~are for~~
11 ~~twenty-five dollars (\$25.00) or more, imprisonment in the~~
12 ~~penitentiary for a term of not less than one year nor more than~~
13 ~~three years or the payment of a fine of not more than one~~
14 ~~thousand dollars (\$1,000) or both such imprisonment and fine]~~
15 in any consecutive three-month period is over one hundred
16 dollars (\$100) but not more than two thousand five hundred
17 dollars (\$2,500), the person is guilty of a fourth degree
18 felony;

19 C. when the amount of the check, draft or order or
20 the total amount of the checks, drafts or orders in any
21 consecutive three-month period is over two thousand five
22 hundred dollars (\$2,500) but not more than twenty thousand
23 dollars (\$20,000), the person is guilty of a third degree
24 felony; and

25 D. when the amount of the check, draft or order or

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1 the total amount of the checks, drafts or orders in any
2 consecutive three-month period is over twenty thousand dollars
3 (\$20,000), the person is guilty of a second degree felony."

4 Section 19. Section 30-40-1 NMSA 1978 (being Laws 1979,
5 Chapter 170, Section 1, as amended) is amended to read:

6 "30-40-1. FAILING TO DISCLOSE FACTS OR CHANGE OF
7 CIRCUMSTANCES TO OBTAIN PUBLIC ASSISTANCE.--

8 A. Failing to disclose facts or change of
9 circumstances to obtain public assistance consists of [~~any~~] a
10 person knowingly failing to disclose [~~any material facts~~] a
11 material fact known to be necessary to determine eligibility
12 for public assistance or knowingly failing to disclose a change
13 in circumstances for the purpose of obtaining or continuing to
14 receive public assistance to which [~~he~~] the person is not
15 entitled or in amounts greater than that to which [~~he~~] the
16 person is entitled.

17 B. Whoever commits failing to disclose facts or
18 change of circumstances to obtain public assistance when the
19 value of the assistance wrongfully received is [~~one hundred~~
20 ~~dollars (\$100)~~] two hundred fifty dollars (\$250) or less in any
21 twelve consecutive months is guilty of a petty misdemeanor.

22 C. Whoever commits failing to disclose facts or
23 change of circumstances to obtain public assistance when the
24 value of the assistance wrongfully received is more than [~~one~~
25 ~~hundred dollars (\$100)~~] two hundred fifty dollars (\$250) but

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1 not more than [~~two hundred fifty dollars (\$250)~~] five hundred
2 dollars (\$500) in any twelve consecutive months is guilty of a
3 misdemeanor.

4 D. Whoever commits failing to disclose facts or
5 change of circumstances to obtain public assistance when the
6 value of the assistance wrongfully received is more than [~~two~~
7 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) but
8 not more than two thousand five hundred dollars (\$2,500) in any
9 twelve consecutive months is guilty of a fourth degree felony.

10 E. Whoever commits failing to disclose facts or
11 change of circumstances to obtain public assistance when the
12 value of the assistance wrongfully received is more than two
13 thousand five hundred dollars (\$2,500) but not more than twenty
14 thousand dollars (\$20,000) in any twelve consecutive months is
15 guilty of a third degree felony.

16 F. Whoever commits failing to disclose facts or
17 change of circumstances to obtain public assistance when the
18 value of the assistance wrongfully received exceeds twenty
19 thousand dollars (\$20,000) in any twelve consecutive months is
20 guilty of a second degree felony."

21 Section 20. Section 30-40-2 NMSA 1978 (being Laws 1979,
22 Chapter 170, Section 2, as amended) is amended to read:

23 "30-40-2. UNLAWFUL USE OF FOOD STAMP IDENTIFICATION CARD
24 OR MEDICAL IDENTIFICATION CARD.--

25 A. Unlawful use of food stamp identification card

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1 or medical identification card consists of the use of a food
2 stamp or medical identification card by ~~[any]~~ a person to whom
3 it has not been issued, or who is not an authorized
4 representative of the person to whom it has been issued, for a
5 food stamp allotment.

6 B. Whoever commits unlawful use of food stamp
7 identification card or medical identification card when the
8 value of the food stamps or medical services wrongfully
9 received is ~~[one hundred dollars (\$100)]~~ two hundred fifty
10 dollars (\$250) or less is guilty of a petty misdemeanor.

11 C. Whoever commits unlawful use of food stamp
12 identification card or medical identification card when the
13 value of the food stamps or medical services wrongfully
14 received is more than ~~[one hundred dollars (\$100)]~~ two hundred
15 fifty dollars (\$250) but not more than ~~[two hundred fifty~~
16 ~~dollars (\$250)]~~ five hundred dollars (\$500) is guilty of a
17 misdemeanor.

18 D. Whoever commits unlawful use of food stamp
19 identification card or medical identification card when the
20 value of the food stamps or medical services wrongfully
21 received is more than ~~[two hundred fifty dollars (\$250)]~~ five
22 hundred dollars (\$500) but not more than two thousand five
23 hundred dollars (\$2,500) is guilty of a fourth degree felony.

24 E. Whoever commits unlawful use of food stamp
25 identification card or medical identification card when the

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1 value of the food stamps or medical services wrongfully
2 received is more than two thousand five hundred dollars
3 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
4 guilty of a third degree felony.

5 F. Whoever commits unlawful use of food stamp
6 identification card or medical identification card when the
7 value of the food stamps or medical services wrongfully
8 received exceeds twenty thousand dollars (\$20,000) is guilty of
9 a second degree felony.

10 G. For the purpose of this section, the value of
11 the medical assistance received is the amount paid by the human
12 services department for medical services received through use
13 of the medical identification card."

14 Section 21. Section 30-40-3 NMSA 1978 (being Laws 1979,
15 Chapter 170, Section 3, as amended) is amended to read:

16 "30-40-3. MISAPPROPRIATING PUBLIC ASSISTANCE.--

17 A. Misappropriating public assistance consists of
18 [~~any~~] a public officer or public employee fraudulently
19 misappropriating, attempting to misappropriate or aiding and
20 abetting in the misappropriation of food stamp coupons, WIC
21 checks pertaining to the special supplemental food program for
22 women, infants and children administered by the [~~health and~~
23 ~~environment~~] human services department, food stamp or medical
24 identification cards, public assistance benefits or funds
25 received in exchange for food stamp coupons.

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1 B. Whoever commits misappropriating public
2 assistance when the value of the thing misappropriated is [~~one~~
3 ~~hundred dollars (\$100)~~] two hundred fifty dollars (\$250) or
4 less is guilty of a petty misdemeanor.

5 C. Whoever commits misappropriating public
6 assistance when the value of the thing misappropriated is more
7 than [~~one hundred dollars (\$100)~~] two hundred fifty dollars
8 (\$250) but not more than [~~two hundred fifty dollars (\$250)~~]
9 five hundred dollars (\$500) is guilty of a misdemeanor.

10 D. Whoever commits misappropriating public
11 assistance when the value of the thing misappropriated is more
12 than [~~two hundred fifty dollars (\$250)~~] five hundred dollars
13 (\$500) but not more than two thousand five hundred dollars
14 (\$2,500) is guilty of a fourth degree felony.

15 E. Whoever commits misappropriating public
16 assistance when the value of the thing misappropriated is more
17 than two thousand five hundred dollars (\$2,500) but not more
18 than twenty thousand dollars (\$20,000) is guilty of a third
19 degree felony.

20 F. Whoever commits misappropriating public
21 assistance when the value of the thing misappropriated exceeds
22 twenty thousand dollars (\$20,000) is guilty of a second degree
23 felony.

24 G. Whoever commits misappropriating public
25 assistance when the item misappropriated is a food stamp or

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1 medical identification card is guilty of a fourth degree
2 felony."

3 Section 22. Section 30-40-6 NMSA 1978 (being Laws 1979,
4 Chapter 170, Section 6, as amended) is amended to read:

5 "30-40-6. FAILURE TO REIMBURSE THE HUMAN SERVICES
6 DEPARTMENT UPON RECEIPT OF THIRD PARTY PAYMENT.--

7 A. Failure to reimburse the human services
8 department upon receipt of third party payment consists of
9 [~~knowingly~~] knowing failure by a medicaid provider to reimburse
10 the human services department or the department's fiscal agent
11 the amount of payment received from the department for services
12 when the provider receives payment for the same services from
13 [~~any~~] a third party.

14 B. A medicaid provider who commits failure to
15 reimburse the human services department upon receipt of third
16 party payment when the value of the payment made by the
17 department is [~~one hundred dollars (\$100)~~] two hundred fifty
18 dollars (\$250) or less is guilty of a petty misdemeanor.

19 C. A medicaid provider who commits failure to
20 reimburse the human services department upon receipt of third
21 party payment when the value of the payment made by the
22 department is more than [~~one hundred dollars (\$100)~~] two
23 hundred fifty dollars (\$250) but not more than [~~two hundred~~
24 ~~fifty dollars (\$250)~~] five hundred dollars (\$500) is guilty of
25 a misdemeanor.

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1 D. A medicaid provider who commits failure to
2 reimburse the human services department upon receipt of third
3 party payment when the value of the payment made by the
4 department is more than [~~two hundred fifty dollars (\$250)~~] five
5 hundred dollars (\$500) but not more than two thousand five
6 hundred dollars (\$2,500) is guilty of a fourth degree felony.

7 E. A medicaid provider who commits failure to
8 reimburse the human services department upon receipt of third
9 party payment when the value of the payment made by the
10 department is more than two thousand five hundred dollars
11 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
12 guilty of a third degree felony.

13 F. A medicaid provider who commits failure to
14 reimburse the human services department upon receipt of third
15 party payment when the value of the payment made by the
16 department exceeds twenty thousand dollars (\$20,000) is guilty
17 of a second degree felony."

18 Section 23. Section 30-45-3 NMSA 1978 (being Laws 1989,
19 Chapter 215, Section 3) is amended to read:

20 "30-45-3. COMPUTER ACCESS WITH INTENT TO DEFRAUD OR
21 EMBEZZLE.--[~~Any~~] A person who knowingly and willfully accesses
22 or causes to be accessed [~~any~~] a computer, computer system,
23 computer network or any part thereof with the intent to obtain,
24 by means of embezzlement or false or fraudulent pretenses,
25 representations or promises, money, property or anything of

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1 value, ~~[where]~~ when the:

2 A. ~~[the]~~ money, property or other thing has a value
3 of ~~[one hundred dollars (\$100)]~~ two hundred fifty dollars
4 ~~(\$250)~~ or less, is guilty of a petty misdemeanor;

5 B. ~~[the]~~ money, property or other thing has a value
6 of more than ~~[one hundred dollars (\$100)]~~ two hundred fifty
7 dollars (\$250) but not more than ~~[two hundred fifty dollars~~
8 ~~(\$250)]~~ five hundred dollars (\$500), is guilty of a misdemeanor
9 ~~[and shall be sentenced pursuant to the provisions of Section~~
10 ~~31-19-1 NMSA 1978]~~;

11 C. ~~[the]~~ money, property or other thing has a value
12 of more than ~~[two hundred fifty dollars (\$250)]~~ five hundred
13 dollars (\$500) but not more than two thousand five hundred
14 dollars (\$2,500), is guilty of a fourth degree felony ~~[and~~
15 ~~shall be sentenced pursuant to the provisions of Section~~
16 ~~31-18-15 NMSA 1978]~~;

17 D. ~~[the]~~ money, property or other thing has a value
18 of more than two thousand five hundred dollars (\$2,500) but not
19 more than twenty thousand dollars (\$20,000), is guilty of a
20 third degree felony ~~[and shall be sentenced pursuant to the~~
21 ~~provisions of Section 31-18-15 NMSA 1978]~~; or

22 E. ~~[the]~~ money, property or other thing has a value
23 of more than twenty thousand dollars (\$20,000), is guilty of a
24 second degree felony ~~[and shall be sentenced pursuant to the~~
25 ~~provisions of Section 31-18-15 NMSA 1978]."~~

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1 Section 24. Section 30-45-4 NMSA 1978 (being Laws 1989,
2 Chapter 215, Section 4) is amended to read:

3 "30-45-4. COMPUTER ABUSE.--~~[Any]~~ A person who knowingly,
4 willfully and without authorization, or having obtained
5 authorization, uses the opportunity the authorization provides
6 for purposes to which the authorization does not extend:

7 A. directly or indirectly alters, changes, damages,
8 disrupts or destroys any computer, computer network, computer
9 property, computer service or computer system, ~~[where]~~ when
10 the:

11 (1) ~~[the]~~ damage to the computer property or
12 computer service has a value of ~~[one hundred dollars (\$100)]~~
13 two hundred fifty dollars (\$250) or less, is guilty of a petty
14 misdemeanor;

15 (2) ~~[the]~~ damage to the computer property or
16 computer service has a value of more than ~~[one hundred dollars~~
17 ~~(\$100)]~~ two hundred fifty dollars (\$250) but not more than ~~[two~~
18 ~~hundred fifty dollars (\$250)]~~ five hundred dollars (\$500), is
19 guilty of a misdemeanor ~~[and shall be sentenced pursuant to the~~
20 ~~provisions of Section 31-19-1 NMSA 1978];~~

21 (3) ~~[the]~~ damage to the computer property or
22 computer service has a value of more than ~~[two hundred fifty~~
23 ~~dollars (\$250)]~~ five hundred dollars (\$500) but not more than
24 two thousand five hundred dollars (\$2,500), is guilty of a
25 fourth degree felony ~~[and shall be sentenced pursuant to the~~

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1 ~~provisions of Section 31-18-15 NMSA 1978];~~

2 (4) [~~the~~] damage to the computer property or
3 computer service has a value of more than two thousand five
4 hundred dollars (\$2,500) but not more than twenty thousand
5 dollars (\$20,000), is guilty of a third degree felony [~~and~~
6 ~~shall be sentenced pursuant to the provisions of Section~~
7 ~~31-18-15 NMSA 1978];~~ or

8 (5) [~~the~~] damage to the computer property or
9 computer service has a value of more than twenty thousand
10 dollars (\$20,000), is guilty of a second degree felony [~~and~~
11 ~~shall be sentenced pursuant to the provisions of Section~~
12 ~~31-18-15 NMSA 1978];~~ or

13 B. directly or indirectly introduces or causes to
14 be introduced data [~~which~~] that the person knows to be false
15 into a computer, computer system, computer network, computer
16 software, computer program, database or any part thereof with
17 the intent of harming the property or financial interests or
18 rights of [~~any~~] another person is guilty of a fourth degree
19 felony [~~and shall be sentenced pursuant to the provisions of~~
20 ~~Section 31-18-15 NMSA 1978]."~~

21 Section 25. Section 30-45-5 NMSA 1978 (being Laws 1989,
22 Chapter 215, Section 5) is amended to read:

23 "30-45-5. UNAUTHORIZED COMPUTER USE.--[~~Any~~] A person who
24 knowingly, willfully and without authorization, or having
25 obtained authorization, uses the opportunity [~~such~~] the

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1 authorization provides for purposes to which the authorization
2 does not extend, directly or indirectly accesses, uses, takes,
3 transfers, conceals, obtains, copies or retains possession of
4 any computer, computer network, computer property, computer
5 service, computer system or any part thereof, ~~[where]~~ when the:

6 A. ~~[the]~~ damage to the computer property or
7 computer service has a value of ~~[one hundred dollars (\$100)]~~
8 two hundred fifty dollars (\$250) or less, is guilty of a petty
9 misdemeanor;

10 B. ~~[the]~~ damage to the computer property or
11 computer service has a value of more than ~~[one hundred dollars~~
12 ~~(\$100)]~~ two hundred fifty dollars (\$250) but not more than ~~[two~~
13 ~~hundred fifty dollars (\$250)]~~ five hundred dollars (\$500), is
14 guilty of a misdemeanor ~~[and shall be sentenced pursuant to the~~
15 ~~provisions of Section 31-19-1 NMSA 1978];~~

16 C. ~~[the]~~ damage to the computer property or
17 computer service has a value of more than ~~[two hundred fifty~~
18 ~~dollars (\$250)]~~ five hundred dollars (\$500) but not more than
19 two thousand five hundred dollars (\$2,500), is guilty of a
20 fourth degree felony ~~[and shall be sentenced pursuant to the~~
21 ~~provisions of Section 31-18-15 NMSA 1978];~~

22 D. ~~[the]~~ damage to the computer property or
23 computer service has a value of more than two thousand five
24 hundred dollars (\$2,500) but not more than twenty thousand
25 dollars (\$20,000), is guilty of a third degree felony ~~[and~~

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1 ~~shall be sentenced pursuant to the provisions of Section~~
2 ~~31-18-15 NMSA 1978~~]; or

3 E. ~~[the]~~ damage to the computer property or
4 computer service has a value of more than twenty thousand
5 dollars (\$20,000), is guilty of a second degree felony ~~[and~~
6 ~~shall be sentenced pursuant to the provisions of Section~~
7 ~~31-18-15 NMSA 1978]~~."

8 Section 26. Section 30-47-6 NMSA 1978 (being Laws 1990,
9 Chapter 55, Section 6) is amended to read:

10 "30-47-6. EXPLOITATION--CRIMINAL PENALTIES.--

11 A. Exploitation of a resident's property consists
12 of the act or process, performed intentionally, knowingly or
13 recklessly, of using a resident's property for another person's
14 profit, advantage or benefit without legal entitlement to do
15 so.

16 B. Whoever commits exploitation of a resident's
17 property when the value of the property exploited is [~~one~~
18 ~~hundred dollars (\$100)] two hundred fifty dollars (\$250) or
19 less is guilty of a petty misdemeanor ~~[and upon conviction~~
20 ~~shall be sentenced pursuant to the provisions of Subsection B~~
21 ~~of Section 31-19-1 NMSA 1978]~~.~~

22 C. Whoever commits exploitation of a resident's
23 property when the value of the property exploited is over [~~one~~
24 ~~hundred dollars (\$100)] two hundred fifty dollars (\$250) but
25 not more than [~~two hundred fifty dollars (\$250)] five hundred~~~~

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1 dollars (\$500) is guilty of a misdemeanor [~~and upon conviction~~
2 ~~shall be sentenced pursuant to the provisions of Subsection A~~
3 ~~of Section 31-19-1 NMSA 1978~~].

4 D. Whoever commits exploitation of a resident's
5 property when the value of the property exploited is over [~~two~~
6 ~~hundred fifty dollars (\$250)~~] five hundred dollars (\$500) but
7 not more than two thousand five hundred dollars (\$2,500) is
8 guilty of a fourth degree felony [~~and upon conviction shall be~~
9 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~
10 ~~1978~~].

11 E. Whoever commits exploitation of a resident's
12 property when the value of the property exploited is over two
13 thousand five hundred dollars (\$2,500) but not more than twenty
14 thousand dollars (\$20,000) is guilty of a third degree felony
15 [~~and upon conviction shall be sentenced pursuant to the~~
16 ~~provisions of Section 31-18-15 NMSA 1978~~].

17 F. Whoever commits exploitation of a resident's
18 property when the value of the property exploited is over
19 twenty thousand dollars (\$20,000) is guilty of a second degree
20 felony [~~and upon conviction shall be sentenced pursuant to the~~
21 ~~provisions of Section 31-18-15 NMSA 1978~~]."

22 Section 27. Section 30-50-4 NMSA 1978 (being Laws 1995,
23 Chapter 37, Section 4) is amended to read:

24 "30-50-4. FRAUDULENT TELEMARKETING--PENALTIES.--[Any] A
25 person who knowingly and willfully engages in telemarketing to

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1 or from a telephone located in New Mexico with the intent to
2 embezzle or to obtain money, property or any thing of value by
3 fraudulent pretenses, representations or promises in the course
4 of a telephone communication, when the:

5 A. ~~[the]~~ money, property or thing has a value of
6 ~~[less than two hundred fifty dollars (\$250), is guilty of a~~
7 ~~misdemeanor and shall be sentenced pursuant to the provisions~~
8 ~~of Section 31-19-1 NMSA 1978]~~ two hundred fifty dollars (\$250)
9 or less, is guilty of a petty misdemeanor;

10 B. ~~[the]~~ money, property or thing has a value of
11 ~~[two hundred fifty dollars (\$250) or more but less than two~~
12 ~~thousand five hundred dollars (\$2,500), is guilty of a fourth~~
13 ~~degree felony and shall be sentenced pursuant to the provisions~~
14 ~~of Section 31-18-15 NMSA 1978]~~ more than two hundred fifty
15 dollars (\$250) but not more than five hundred dollars (\$500),
16 is guilty of a misdemeanor;

17 C. money, property or thing has a value of more
18 than five hundred dollars (\$500) but not more than two thousand
19 five hundred dollars (\$2,500), is guilty of a fourth degree
20 felony;

21 ~~[C. the]~~ D. money, property or thing has a value
22 of more than two thousand five hundred dollars (\$2,500) ~~[or~~
23 ~~more but less]~~ but not more than twenty thousand dollars
24 (\$20,000), is guilty of a third degree felony ~~[and shall be~~
25 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~

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1 1978]; or

2 [D. ~~the~~] E. money, property or thing has a value
3 of more than twenty thousand dollars (\$20,000) [~~or more~~], is
4 guilty of a second degree felony [~~and shall be sentenced~~
5 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978~~]."

6 Section 28. Section 59A-16-23 NMSA 1978 (being Laws 1984,
7 Chapter 127, Section 290) is amended to read:

8 "59A-16-23. FALSE APPLICATIONS, CLAIMS, PROOFS OF LOSS.--

9 A. [~~No~~] An agent, broker, solicitor, examining
10 physician, applicant or other person shall not knowingly or
11 [~~wilfully~~] willfully:

12 (1) make [~~any~~] a false or fraudulent statement
13 or representation as to [~~any~~] a material fact in or with
14 reference to [~~any~~] an application for insurance or other
15 coverage; [~~or~~]

16 (2) for the purpose of obtaining [~~any~~] money
17 or benefit, present or cause to be presented a false or
18 fraudulent claim or [~~any~~] proof in support of such a claim for
19 payment of loss under a policy; [~~or~~]

20 (3) prepare, make or subscribe a false or
21 fraudulent account, certificate, affidavit or proof of loss or
22 other document with intent that the same may be presented or
23 used in support of such a claim; or

24 (4) make [~~any~~] a false or fraudulent statement
25 or representation on or relative to an application for a policy

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1 for the purpose of obtaining [~~any~~] a fee, commission or benefit
2 from an insurer, agent, broker or individual.

3 B. [~~Any such~~] A false statement or representation
4 made under oath shall constitute and be punishable as perjury
5 [~~and any violation~~]. A violation of the provisions of this
6 section [~~shall constitute and be punishable as a felony~~] when
7 the purported loss or potential loss to the victim insurer is:

8 (1) two hundred fifty dollars (\$250) or less
9 is a petty misdemeanor;

10 (2) over two hundred fifty dollars (\$250) but
11 not more than five hundred dollars (\$500) is a misdemeanor;

12 (3) over five hundred dollars (\$500) but not
13 more than two thousand five hundred dollars (\$2,500) is a
14 fourth degree felony;

15 (4) over two thousand five hundred dollars
16 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
17 a third degree felony; or

18 (5) over twenty thousand dollars (\$20,000) is
19 a second degree felony.

20 C. Whoever knowingly conspires with another person
21 or engages another person by soliciting, commanding,
22 requesting, inducing or employing that person to commit false
23 application or fraudulent claim or to submit a fraudulent proof
24 of loss, if found guilty, shall be sentenced in accordance with
25 the provisions of Subsection B of this section."

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1 Section 29. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2006.

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